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EXAMINER

NGUYEN, CHAU T

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2176

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/627,535
Filing Date: July 28, 2000
Appellant(s): BIALEK ET AL:

Raymond A. Jensi
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/21/2006 appealing from the Office action mailed 11/26/2004.

(1) Real Party in Interest

The Appellant's statement of the real party in interest contained in the brief is correct.

(2) Related Appeals and Interferences

The Appellant's statement of the related appeals and interferences contained in the brief is correct.

(3) Status of Claims

The Appellant's statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments

The Appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of The Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement on the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Peterson et al., U.S. Patent Number 6,594,682 B2, issued on July 15, 2003, but filed on October 28, 1997 (hereinafter Peterson).

Walker et al., U.S. Patent Number 6,377,963 B1, issued on April 23, 2002, but filed on May 23, 1997 (hereinafter Walker).

Issac et al., U.S. Patent Number 6,632,248 B1, issued on October 14, 2003, but filed on December 6, 1996 (hereinafter Issac).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims 1-15:

Claims 1-2, 7-10, and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterson et al. (Peterson), US Patent No. 6,594,682.

As to claims 1, 12, and 13, Peterson discloses a method of assembling content from content providers, the content providers having the content available on a network, for delivery from a document server to a subscriber's terminal, comprising the steps of:

obtaining a subscriber's content definition (col. 10, lines 17-24: storing user's preferences (subscriber's content definition));

defining a locator template having a plurality of parameter slots and being compatible with a resource locator of a content provider having content meeting said content definition (col. 10, lines 9-33 and col. 11, line 39 – col. 12, line 3: the user can elect certain channels and content by appropriately marking them in the index viewer UI 122, which presents general categories (plurality of parameter slots) such as "New and Technology", "Sports", "Business", "Entertainment", etc..., and the index viewer UI 122 displays one or more indices that associated with the information to which the user has subscribed);

recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator (col. 11, line 47 – col. 12, line 31: the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then

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creates a new channel (provider resource locator) that presents the Web content from the set of channels);

transmitting said provider resource locator on the network (col. 4, lines 17-40);

receiving content from said content provider in response to said transmission of said provider resource locator (col. 4, lines 17-40); and

assembling at least said received content for delivery from the document server to the subscriber's terminal (col. 7, lines 6-14 and col. 12, line 61 – col. 13, line 50: delivering Web content from a webcast center 152 which gathers web content from the World Wide Web by visiting web sites 158(1)-158(m) and fetching content from those sites).

As to claim 2, Peterson discloses the step of storing said received content (col. 9, lines 53-59).

As to claim 7, Peterson discloses the step of delivering said assembled content to the subscriber's terminal (Peterson, col. 7, lines 6-14).

As to claim 8, Peterson discloses the step of conveying said assembled content to the subscriber's terminal (Peterson, col. 7, lines 6-14).

As to claim 9, Peterson discloses wherein said step of obtaining a subscriber's content definition further comprises the step of recalling a subscriber profile (Peterson,

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col. 11, line 47 – col. 12, line 31: the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then creates a new channel (provider resource locator) that presents the Web content from the set of channels)..

As to claim 10, Peterson discloses the step of scheduling delivery of said assembled content at a time in accordance with said subscriber profile (Peterson, col. 8, line 54 – col. 9, line 15).

Claims 3-6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson as applied to claim 1-2, 7-10, and 12-13 above, and further in view of Walker et al. (Walker), US Patent No. 6,377,963.

As to claims 3 and 14, Peterson discloses assigning said received content a storage name (col. 14, lines 26-53: creating a customized index of web content). However, Peterson does not disclose the steps of said storage name including a current date code and a content definition code; and confirming the existence of said storage name when at least said content is to be assembled, thereby identifying missing content. In the similar field of endeavor, Walker discloses a magazine database contains data relating to magazines published by publisher such as magazine ID number (content code), and time periods of the magazine (col. 4, line 6 – col. 5, line 56).

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Walker also discloses a subscriber database contains magazine ID number, subscription expiration date, etc... (col. 5, lines 29-43), and if a subscriber record does not exist for subscriber, publisher creates a new record in subscriber database (col. 7, lines 1-14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Walker and Peterson to include storage name including a current date code and a content definition code; and confirming the existence of said storage name when at least said content is to be assembled, thereby identifying missing content in order to make the system more efficient.

As to claim 4, Peterson and Walker (Peterson-Walker) disclose wherein the step of recalling stored parameter values further comprises the step of recalling stored parameter values that are stored in an association with at least part of said content definition (Peterson, col. 11, line 47 – col. 12, line 31: the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then creates a new channel (provider resource locator) that presents the Web content from the set of channels; Walker discloses a magazine database contains data relating to magazines published by publisher such as magazine ID number (content code), and time periods of the magazine (col. 4, line 6 – col. 5, line 56). Walker also discloses a subscriber database contains magazine ID number, subscription expiration date, etc... (col. 5, lines 29-43),

and if a subscriber record does not exist for subscriber, publisher creates a new record in subscriber database (col. 7, lines 1-14)).

As to claim 5, Peterson-Walker disclose wherein one of said stored parameters is a publication date, the method further comprising the step of incrementing said publication date by a predetermined time to create a second provider resource locator (Walker, col. 4, lines 53-65 and Fig. 3).

As to claim 6, Peterson-Walker disclose step of varying a parameter value to account for predicable errors of said parameter value to create another provider resource locator (Walker, col. 6, line 53 – col. 7, line 14).

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson as applied to claim 1-2, 7-10, and 12-13 above, and further in view of Herz, US Patent No. 6,460,036).

As to claim 11, Peterson does not explicitly disclose the steps of ascertaining subscriber advertising information with said received content. In the same field of endeavor, Herz discloses determining set of advertisements associated with target object (received content) and delivering the advertisements associated with target object to user (col. 40, lines 16 – col. 41, line 3). Thus, it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the

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teachings of Herz and Peterson to include ascertaining subscriber advertising information with said received content to enable user to access information of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson as applied to claim 1-2, 7-10, and 12-13 above, and further in view of Issac et al. (Issac), US Patent No. 6,632,248.

As to claim 15, Peterson discloses recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator (col. 11, line 47 – col. 12, line 31: the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then creates a new channel (provider resource locator) that presents the Web content from the set of channels). However, Peterson does not explicitly disclose the provider resource locator is a uniform resource locator (URL). Issac discloses a user navigates client 20 to the network address (uniform resource locator) of HTML customization document which includes topical groupings of customization options relating to news, sports, financial, (parameter slots), and the customization document 92 can allow the user to designate specific URLs to be included on the customized document (col. 5, lines 16-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the

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teaching of Issac and Peterson to include recalling stored parameter values and inserting said parameter values in said parameter slots to create a URL since Issac's customization of HTML documents is beneficial for home pages, network gateway pages, or any other pages that potentially provide direct access to a wide variety of links or information.

(10) Response to Arguments

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellants' arguments filed on April 25, 2005, the appellants argue in substance:

Group 1:

A) "Peterson does not teach that a URL can be variable; only one fixed URL is available to be used for specific content from the content provider." (see page 5 of Brief)

In reply to argument A in group 1, the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a URL can be variable) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In this case, claim 1 does not include "a URL can be variable", instead, claim 1 claims "defining a locator template having a plurality of parameter slots and being compatible with a resource locator of a content provider having content meeting said

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content definition". Peterson discloses in col. 10, lines 9-33 and col. 11, line 39 – col. 12, line 3: the user can elect certain channels (plurality of parameter slots) and content by appropriately marking them in the index viewer UI 122 (a locator template), which presents general categories or channels (plurality of parameter slots) such as "New and Technology", "Sports", "Business", Entertainment", etc., and the index viewer UI 122 displays one or more indices that associated with the information to which the user has subscribed; and each channel is associated with a particular source such as a CNN channel that facilitates delivery of CNN news from the CNN web site, and a channel might represent the content that is available from a single Web site (col. 6, line 58 – col. 7, line 14).

B) "Peterson neither teaches that such a URL has parameter slots nor that a content provider URL can or should be modified." (see page 6 of Brief)

In reply to argument B in group 1, Examiner finds nowhere in claim 1 that contains "URL has parameter slots" or "a content provider URL can or should be modified" as if Applicants argued above. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., URL has parameter slots or a content provider URL can or should be modified) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Please see response to argument A in group 1 above.

C) "Peterson, moreover, does not assemble the "received content for delivery from the document server to the subscriber terminal." (see page 7 of Brief)

In reply to argument C in group 1, Peterson discloses in col. 1, lines 7-13, col. 4, lines 17-29 and col. 6, lines 17-26 that client-server system for obtaining Web related content from one or more servers and presenting that content to a user.

D) Peterson does not teach "recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator." (see page 8 of Brief)

In reply to argument D in group 1, Peterson discloses in col. 11, line 47 – col. 12, line 31 that the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then creates a new channel (provider resource locator) that presents the Web content from the set of channels).

Group 2:

A) The cited references do not, independently or combined, teach or disclose "including in a user profile a scheduled time at which a report is to be delivered to a user" (see page 9 of Brief)

In reply to argument A in group 2, Peterson discloses in page 4, lines 17-29, col. 9, lines 1-8 and Fig. 4 that a customer schedule (user profile) includes a time event that enable a user to schedule when the Internet content is delivered to the user.

B) The cited references do not, or combined, teach or disclose delivering the report to the user at the scheduled time without human intervention. (see page 9 of Brief)

In reply to argument B in group 2, Examiner could not find anywhere in the claimed invention that discloses delivering the report to the user at the scheduled time without human intervention. Therefore, Applicants cannot argue in substance that is not claimed.

C) The cited references do not, or combined, teach or disclose accepting an event request from the user and searching network sites for events corresponding to the event request. (see page 9 of Brief)

In reply to argument C in group 2, Peterson discloses in col. 4, lines 17-29 that the client system has a scheduling subsystem to schedule a time to obtain the Web content from the Web server, and the Web server provides both the Web content and index, and the index may originate from one Web server or it may be a collection of elements originating from multiple servers (col. 6, lines 17-37).

D) "The proposed combination of Peterson and Walker cannot be deemed to make claim 3 obvious and the rejection of claim 3 is deemed improper." (see page 9 of Brief) Also, there is no concrete motivation, suggestion, or teaching in Peterson or Walker to make the combination used by Examiner. (see page 10 of Brief)

In reply to argument D in group 2, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a

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reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Also, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Peterson discloses assigning said received content a storage name (col. 14, lines 26-53: creating a customized index of web content). However, Peterson does not disclose the steps of said storage name including a current date code and a content definition code; and confirming the existence of said storage name when at least said content is to be assembled, thereby identifying missing content. In the similar field of endeavor, Walker discloses a magazine database contains data relating to magazines published by publisher such as magazine ID number (content code), and time periods of the magazine (col. 4, line 6 – col. 5, line 56). Walker also discloses a subscriber database contains magazine ID number, subscription expiration date, etc., (col. 5, lines 29-43), and if a subscriber record does not exist for subscriber, publisher creates a new record in subscriber database (col. 7, lines 1-14). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Walker and Peterson to include storage name including a current date code and a content definition code; and confirming the existence of said storage name when at least said content is to be assembled, thereby identifying missing content in order to make the system more efficient.

Group 3:

A) There is no suggestion or motivation in either reference to combine them.

In reply to argument A in group 3, applicants' argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Peterson discloses recalling stored parameter values and inserting said parameter values in said parameter slots to create a provider resource locator (col. 11, line 47 – col. 12, line 31: the user selects a set of channels (parameter slots) and indicates the preferred Web content within each channel, and the browser takes the user's input and constructs a set of rules based on the user's selections and preferences, and the browser then creates a new channel (provider resource locator) that presents the Web content from the set of channels). However, Peterson does not explicitly disclose the

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provider resource locator is a uniform resource locator (URL). Issac discloses a user navigates client 20 to the network address (uniform resource locator) of HTML customization document which includes topical groupings of customization options relating to news, sports, financial, (parameter slots), and the customization document 92 can allow the user to designate specific URLs to be included on the customized document (col. 5, lines 16-63). Issac also discloses sending the HTML customization document with selected options to server, and the server can form customized HTML document by displaying the user's selected options such that they become links (URLs) so the user can click on directly (col. 5, lines 49-63 and col. 8, lines 9-20). Since Issac discloses forming a customized HTML document for user based on the user's selected options, which is similar to a method for organizing of web content and delivering it to user based on the user's selections, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Issac and Peterson to include recalling stored parameter values and inserting said parameter values in said parameter slots to create a URL since Issac's customization of HTML documents is beneficial for home pages, network gateway pages, or any other pages that potentially provide direct access to a wide variety of links or information.

(11) **Related Proceeding(s) Appendix**

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is respectfully submitted that the rejections should be sustained.

Respectfully Submitted,



Chau Nguyen


WILLIAM BASHORE
PRIMARY EXAMINER
5/1/2016

Conferee:



Heather Herndon (Supervisor AU 2176)

Stephen Hong (Supervisor AU 2178)


STEPHEN HONG
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